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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,561	06/24/2002	Michael Mueller	1879	8818

7590 11/18/2003
Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

SCHEUERMANN, DAVID W

ART UNIT PAPER NUMBER

2834

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/980,561		MUELLER ET AL.	
	Examiner		Art Unit	
	David W. Scheuermann		2834	

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed August 11, 2003 have been fully considered but they are not persuasive. Applicant argues that Klappenbach et al., US 6201326, fails to provide any disclosure of the limitation that the brush holder is "loosely coupled" to the PCB. The examiner disagrees that the terms affixing and securing cannot include "loosely coupled." For example, one could say, "the anchor is secured to the boat via the anchor line." The anchor is fixedly secured to the boat yet "loosely coupled" at the same time. This coupling permits relative movement between the boat and the anchor. In a similar fashion, the brush holder is fixedly secured (via the electrical leads or detent elements) to the PCB yet "loosely coupled."

A side by side comparison of figure 5 of Klappenbach et al. and applicants figure 2 reveals a remarkable similarity in that the only means to couple the brush holder to the circuit board are a pair of electrical conductors and detent elements. Either or all of these coupling means read on the phrase "loosely coupled."

Applicant's remarks regarding the Moskab reference (not applied) are unclear. It is unclear as to what is meant by "these parts", page 8, line 6 from the bottom. Also, Moskab has 30 designated as the "control electronics protective housing" not a "bridge".

Finally the phrase "for installation in the actuator," a recitation of the intended use of the claimed invention must result in a structural difference between the claimed

invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Currently both the electrical conductors and detent elements shown in figure 5 of Klappenbach are capable of attaching brush holder 25 to circuit board 30 in a "loosely coupled" manner. For a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Thus the Klappenbach reference has all the limitations of the claims; hence the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 12-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Klappenbach et al., US 6201326.

Klappenbach et al. show:

An actuator (1), in particular for an assembly of a motor vehicle, comprising:
a unit comprising an electric motor (3), a gear (5 and 6), and a motor electronics unit (30),

a housing (32 and 55 and 10), comprising a gear housing (32) for the gear (6) and an electronics housing (32) for the motor electronics unit (30),
a motor housing (6) of the electric motor (3), wherein said motor housing is connected to the housing (32),
a shaft (5) of the electric motor (3), wherein said shaft protrudes into the gear housing (32),
a brush holder (25) in the housing (32),
a printed circuit board (30), wherein said printed circuit board is disposed in the electronics housing (32), and is connected to an external connection plug (28), wherein said printed circuit board is further electrically connected to the brush holder (25) and to components of the motor electronics unit (37 and 38),
wherein the brush holder (25), for installation in the actuator is loosely coupled to the printed circuit board (30).

As shown in figure 5, the unlabeled detents are capable of holding brush holder (25) "loosely" to circuit board (30). Alternately, electrical connections 44 protruding from brush holder (25) are introduced into openings in the printed circuit board (30) function to hold brush holder (25) "loosely" to circuit board (30).

Re claim 17, note figure 2 showing worm (5) encased by case (32) on one side and another case on the other side.

As to claim 20, note the paragraph bridging columns 4 and 5 provides for elastic prestressing of the brush holder (25), consequently abutting circuit board (30) is also supported thereby.

Claims 21 and 22 include method steps. These steps do not patently define over the apparatus of Klappenbach et al. Note that struts 54 can function to guide both the circuit board and brush holder. In addition the casing and any of the housing structure, for example (32), serves to guide both the circuit board and brush holder during the assembly process.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

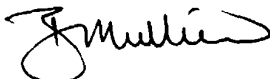
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gleixner shows a brush plate resiliently mounted to a base. JP 9-131034 shows brush 16 "loosely coupled" to circuit board 17. DE 9013006 shows brush-holder 6 "loosely coupled" to circuit board 5 by two electric leads and two loose legs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David W. Scheuermann whose telephone number is (703) 308-9637. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

dws
November 6, 2003


BURTON S. MULLINS
PRIMARY EXAMINER